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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,247	12/14/2005	Hirokazu Ooe	2936-0241PUS1	5978

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BIRCH STEWART KOLASCH & BIRCH
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EXAMINER

CORMIER, DAVID G

ART UNIT	PAPER NUMBER
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1792

NOTIFICATION DATE	DELIVERY MODE
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06/08/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)	
	10/535,247	OOE ET AL.	
	Examiner	Art Unit	
	DAVID CORMIER	1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,7,8,10,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 7, 8, 10, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01302009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office Action is responsive to the amendment filed on January 30, 2009. Claims 1, 4, 5, 7, 8, 10, 16 and 17 are pending. Claims 1, 4, 5, 7, 8, 10 and 16 have been amended. Claims 2, 3, 6, 9 and 12-15 have been canceled, and Claim 17 is new.

Specification

2. The amendments to the specification filed January 30, 2009 are accepted.

Drawings

3. The drawings filed January 30, 2009 are accepted.

Inventorship

4. The Examiner acknowledges that the present application and U.S. Patent Application No. 10/550002 were, at the time of the invention of the present application commonly owned.

Double Patenting

5. The Terminal Disclaimer filed January 30, 2009 is accepted, and the double patenting rejection, made of record in the Office Action mailed October 30, 2008, has been withdrawn.

Claim Objections

6. The claim objection, made of record in the Office Action mailed October 30, 2008, has been withdrawn in response to Applicant's amendments.

Response to Arguments

7. The rejections under 35 U.S.C. 112, second paragraph, made of record in the Office Action mailed October 30, 2008, have been withdrawn.

8. The rejection of Claims 1-7 and 16 as being unpatentable under 35 U.S.C 102(b) over Ando et al. (JP 2001-276484), made of record in the Office Action mailed October 30, 2009, has been withdrawn in response to Applicant's amendments filed January 30, 2009.

9. The rejection of Claims 1-15 as being unpatentable under 35 U.S.C 102(b) over Hird (WO 01/71084), made of record in the Office Action mailed October 30, 2009, has been withdrawn in response to Applicant's amendments filed January 30, 2009.

10. The rejections of Claims 1, 2, 3 and 16 as being unpatentable under 35 U.S.C 103(a) over combinations of Ando et al. (JP 2001-276484), Wada (JP 06-269592) and Fujii et al. (JP 03-97497), made of record in the Office Action mailed October 30, 2009, have been withdrawn in response to Applicant's amendments filed January 30, 2009.

11. Applicant's arguments against the 102(b) rejections using Ando and Hird are unpersuasive. Ando and Hird are relied upon because they meet Applicant's claimed, and implied, structural limitations. Ando and Hird may not meet all of the use

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limitations, but because both Ando and Hird could be used in the claimed manner, the references anticipate the claim.

Information Disclosure Statement

12. The information disclosure statement filed January 30, 2009 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. Those references, which have not been considered, have been crossed out and are not initialed.

Claim Rejections

13. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

14. **Claims 1, 4, 5, 7 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Ando et al. (JP 2001-276484).**

15. Ando meets all of the claimed, and implied, structure of Claims 1, 4, 5, 7 and 16.

16. Ando discloses a washing machine having the following:

- a. a washing tub (103);
- b. an ion elution unit (B);

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- c. a treatment substance adding portion (this can be broadly interpreted to be met by the implicitly disclosed door of the machine into which laundry is added, and into which a user could add detergents, or even the water supply opening, 107, where the treatment substance added to the water in the tub could simply be more water);
- d. a water flow controlling portion, "valve" (110); and
- e. an agitator (104), which is implied by the swirl periods (this limitation would also be met by a rotatable tub/drum).

17. The further limitations of Claims 1, 4, 5, 7 and 16 are considered to be intended use of the washing machine as taught by Ando and are not further limiting in so far as the structure of the apparatus is concerned. The claimed intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

Claim Rejections - 35 USC § 103

18. Claims 8, 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hird (WO 01/71084) in view of Ando et al. (JP 2001-276484).

19. Of the structure required by Claims 8, 10 and 17, Hird discloses the following:
- a. a rotatable washing tub for agitation and/or unbalance correction (50);
 - b. an unbalance detecting portion (Figure 2, part T);
 - c. an unbalance correcting portion, "controller" (Figure 2, part 100), or a drum actuating "motor" (Figure 2, part M);

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- d. an LCD for giving an indication and/or notification (Figure 2, part 125)
- 20. Hird does not expressly disclose having a metal ion adding portion.
- 21. Ando discloses a metal ion adding portion (B), which is added to a rinsing cycle such that particles adhere to clothing and impart an antibacterial effect to the clothing (machine translation paragraphs 4 and 5).
- 22. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hird, as taught by Ando, and to have a metal ion adding portion combined with a washing machine. One would have been motivated to do so in order to produce the predictable result of sterilizing clothing.
- 23. The further limitations of Claims 8, 10 and 17 are considered to be intended use of the washing machine as taught by Hird in view of Ando and are not further limiting in so far as the structure of the apparatus is concerned. The claimed intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

Conclusion

- 24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
- 25. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID CORMIER whose telephone number is (571) 270-7386. The examiner can normally be reached on Monday - Thursday 8:30 - 6:00.

27. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

28. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/

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Supervisory Patent Examiner, Art
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/DGC/
David Cormier
06/03/2009